



COMMUNITY DEVELOPMENT DEPARTMENT

17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

APRIL 23, 2002

PRESENT: Acevedo, Benich, Lyle, Mueller, Sullivan, Weston

ABSENT: McMahon

LATE: None

STAFF: Planning Manager (PM) Rowe and Minutes Clerk Johnson

Chair Sullivan called the meeting to order at 7:02 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Sullivan opened the public hearing.

With no persons indicating a wish to speak, the public hearing was closed.

MINUTES:

March 12, 2002

COMMISSIONERS MUELLER/WESTON MOTIONED TO APPROVE THE MARCH 12, 2002 MINUTES, WITH THE FOLLOWING AMENDMENTS:

Page 10, bottom of the page: (add): It was made clear by up-coming speakers Vince Burgos, Rocke Garcia, and Scott Schilling, all of whom had been active during the discussions and involved with the process on a continuing basis, that they were in favor of the pro ration as explained in the orientation meeting.

Page 20, Paragraph 7: Commissioners directed staff to amend the prepared resolution to include the minimum lot size(s).

Page 24, last paragraph: ~~available~~ required

THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.

March 26, 2002 COMMISSIONERS MUELLER/WESTON MOTIONED TO APPROVE THE MARCH 26, 2002 MINUTES, WITH THE FOLLOWING AMENDMENTS:

Page 8, paragraph 4:that if (add) an on-going project

THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.

April 9, 2002 COMMISSIONERS MUELLER/BENICH MOTIONED TO APPROVE THE APRIL 9, 2002 MINUTES, WITH THE FOLLOWING AMENDMENTS:

Page 2, last paragraph: (add before last sentence): In discussion with Mr. Funare, Commissioners indicated that 'slatting' the fence would not solve the identified problems and that the landscaping in place had not been in accordance with the direction provided at the time of the original use permit.

Page 3, 2nd paragraph: (correction) Commissioner Weston indicated that there are two different projects to be considered regarding the street issues. He continued by asking that a future agenda item be placed to discuss the Monterey/Madrone Parkway extension plans and the landscaping requirements which should be tied while reflecting the differing projects.

Page 4 (following the first full paragraph): Commissioner Lyle asked about the availability of the traffic study since it was of critical importance for evaluation of directional patterns, etc., for the project.

Page 5, last bullet:8' on the Monterey side and 5' on the Tennant side

Page 6, 3rd bullet: ~~receptacles~~ enclosures

7th bullet: ~~receptacles~~ enclosures *and* add at end: with trellises placed to conceal the trash bin

Note: During discussion at the April 23, 2002 meetings, regarding this item, Commissioner Weston indicated he did not feel enough direction had been provided to the ARB regarding specific items. He was encouraged to write a letter to the ARB expressing his views.

THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.

OLD BUSINESS:

**1) MP-01-12: E.
DUNNE-FIRST
COMMUNITY
HOUSING**

A request for 38 residential building allotments for FY 2003-04. The overall project consists of 100 apartment units; 62 allotments have already been awarded. The overall site is approximately 7.2 acres and is located at the southeast corner of E. Dunne Ave. and Butterfield Blvd.

One application for the affordable competition was received. PM Rowe said that at the April 9, 2002 meeting the Commission considered a request from First Community Housing for award of the affordable allotments for phase 3 of the Murphy Ranch project. The First Community Housing project failed to receive a minimum passing score in the Safety and Security category, receiving two points in the category. Accordingly, he indicated, the project was not eligible to receive the affordable building allotments unless the applicant was allowed to modify their application to increase the score in that category. At the April 9 meeting, PM Rowe reported, the Commission agreed to allow the applicant to modify their application.

Regarding the amended project application, PM Rowe said, the project needs to receive a minimum passing score of 3 points under the Safety and Security Category to be eligible for allotments. First Community Housing has amended pages 59 and 60 of their project narrative. The applicant has now committed to the installation of a fire alarm system with an auto dialer and monitoring by a central station, which meets City Ordinance and the installation of automatic earthquake shut-off valves for gas service. Therefore, PM Rowe said, staff is now recommending a final score of 5 points under the Safety and Security Category. Two points were awarded under criterion 3 for the commitment to install the fire alarm system and one point was awarded for the commitment to install earthquake shut off valves. The project now meets the minimum scoring criteria and has a recommended final score of 145.

PM Rowe recommended that the Commission should focus on issues that would result in change of points, and direct staff to change points where a majority of the Commission requests a reevaluation. A possible modification in the point scores may result from this further review. The Commissioners, PM Rowe said, should then agree on a final point score for the project.

When the Commission proceeds to the awarding and distribution of allotments, PM Rowe advised the Commission members, the staff recommends award of residential allotments for Fiscal Year 2003-2004 affordable allocation in the following manner:

<u>Project</u>	<u>Allotments</u> 2003-2004	<u>Allotments</u> 2004-2005	<u>Total</u>
MP-01-12: E Dunne- First Community Housing	28	10	38

PM Rowe stated the project would be completed during the second-year phasing.

PM Rowe reiterated there are two changes being asked by the applicant which could

increase the score from that previously given. The first issue deals with the fire system and he indicated that the applicant agrees with the Fire Department recommendations. The second change is the manner of allocations. The applicant asks for 15 units the first year and additionally requests 23 units for the second-year. Because of the policy to discourage giving allocations in the second year, the Planning Commission is asked to make a recommendation regarding this request.

Commissioner Lyle asked if the number of units suggested were included in the revised resolution which had been given to Commissioners at the beginning of the meeting? PM Rowe answered in the affirmative, noting the total number of allocations would be 38 if the request is granted. He also said that since there were no other applicants for this category of housing, it would be reasonable for the request to be granted if the Commissioners wished. Commissioner Lyle also inquired regarding the possible revisal of allocations when the corrected census numbers are received from the Department of Finance in May. Other Commissioners indicated this should be further discussed following the public hearing.

Chair Sullivan opened the public hearing.

Thomas Iamesi, 2 N. Second St. #1250, San Jose, introduced himself as the applicant. He thanked the Commissioners for the opportunity to speak to the matter, offering to answer any questions.

Commissioner Weston asked if letters are to be sent to the resident regarding the safety upgrades? Mr. Iamesi replied this would occur, but he did not know the particulars of the process.

Commissioner Lyle asked if an extension will be needed since there has been some delay in the start date due to the information revisal required? Mr. Iamesi stated he did not believe this to be necessary.

Commissioner Mueller asked if the Commissioner were to wait until the Department of Finance numbers come in, in May, with approval now, or waiting until May, what would the effects be on the project? Mr. Iamesi stated it probably would make no difference, nor be important for the purposes of building.

PM Rowe reminded it is important for a recommendation regarding balancing the numbers for the two years, making sure the total reaches 38.

The public hearing was closed.

Responding to questions regarding the balance of numbers of allocations, PM Rowe suggested putting the numbers into the resolution as a total, but giving staff the ability to adjust the first and second-year allocations based on January 2002 Department of Finance population estimate.

Commissioner Mueller commented that the number of 23 allocations for the second year

may be 'borderline'. Both he and Commissioner Weston expressed concern that providing firm numbers (in total) may decrease the principle of the system and not be reflective of true and accurate numbers. Commissioner Mueller indicated he would be comfortable waiting until May when the Department of Finance numbers are sent to the City.

COMMISSIONERS BENICH/LYLE OFFERED RESOLUTION NO. 02-34, ESTABLISHING RESIDENTIAL DEVELOPMENT CONTROL SYSTEM ALLOTMENTS FOR AN AFFORDABLE RESIDENTIAL PROJECT IN FISCAL YEAR 2003-04, WITH THE MODIFICATION WHICH PERMITS STAFF TO ADJUST THE NUMBERS OF THE YEARLY ALLOCATIONS, TOTALING NOT MORE THAN 38 FOR THE ENSUING TWO YEARS. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, SULLIVAN; NOES: MUELLER, WESTON; ABSENT: McMAHON; ABSTAIN: NONE.

**2) UP-01-05:
MONTEREY-
ARCO**

A request to approve a conditional use permit to construct a new 3,600 sf Arco AM/PM mini-market, a 4,500 sf gas station and a 792 sf car wash facility located at 18605 Monterey Rd. at the southwest corner of Monterey and Cochrane Roads.

PM Rowe reported that the Planning Commission approved the use permit for the proposed gas station, car wash and convenience market at the December 4, 2001 meeting. Subsequently, a determination was made that the Planning Commission acted prematurely by approving the use permit prior to City Council approving the zoning amendment, which included the project negative declaration. PM Rowe recalled that the Planning Commission, at the March 12, 2002 meeting directed staff to return this item to the Commission for reconsideration, should approval be given by the City Council of the proposed Zoning Amendment. PM Rowe noted that the City Council approved the zoning amendment at their April 3, 2002 meeting, and that the use permit approval will not become operative until the effective date of the PUD Zoning Amendment.

PM Rowe continued by saying that the City Council had made several modifications. These are reflected in Section 3 in the conditions and findings cited.

PM Rowe also called attention to a letter from David Sweigert, attorney for the homeowners in the area; to page 14 of the Standard Conditions and findings of Section 3; Standard Condition 9; the last bullet in Section 3; and the third finding on page 14, item 3B.

Referencing the third finding on page 14, item 3B, Commissioner Mueller asked what will result if the Community Development Director does not direct that a fence is needed on the west side of the project; he continued by stating that he was asking the question because the matter is not clear in Section 9 on page 14. PM Rowe replied that the condition would require the fence to be installed on the east side of the track if it is determined that it is not feasible to install the fence on the west side.

Chair Sullivan opened the public hearing.

Scott Schilling, 16060 Caputo Dr. #160, of South Valley Developers, and representing the applicant, spoke to the Commissioners. He introduced the team of Arco personnel who were present, indicating questions would be answered by those present. Mr. Schilling indicated he had been the intermediary between the neighbors and felt substantial progress had been made.

Note: all area residents who spoke indicated there were members of NAG, Neighbors Against Arco

Bob Quill, 18575 Old Monterey Rd., said he is opposed to the project as a 'bad idea'. Mr. Quill indicated he did not feel the area residents had been respected and he has no confidence in either the Commissioners nor the Council members. Mr. Quill conceded that Arco officials had agreed to reducing the 24-hour gas-and-groceries operation at the request of the neighbors. However, he insisted it is not enough; that the hours of the sale of alcohol should be 5 a.m. to 10 p.m., instead of 6 a.m. to 10 p.m. Mr. Quill said that if that demand is not met, he will continue to oppose the project.

Rogelio Balderas, 18520 Del Monte Ave., told Commissioners that while the project has lots of attributes, it is 'bad' as well. He remains opposed to the development, but says it is a 'pretty project'. Mr. Balderas said his objection is mainly in the area of health: that the operation will promote products that are bad for health, such as tobacco and junk food. He indicated that neighbors are still working in opposition to the project by contacting the CA ABC (Alcohol Beverage Control) to protest, where he insisted Arco had made an 'end - run' around the neighbors. He acknowledged that Arco officials had acted legally, but said the 'process had been circumvented'. "The neighbors and I remain opposed to this project on the grounds of health and safety," Mr. Balderos declared.

Sherry Vanella, 160 Sanchez Dr., spoke her thanks to the Schilling brothers for assisting with the meetings for the neighbors. She suggested that the City would do well to consider a mediation process or some kind of liaison, a real non-partisan link for better understanding. Ms. Vanella said they were asking Arco officials to close the mini-mart at 10 p.m.. "If that is not possible, I would suggest they put in a cash window or some other alternative which would help reduce the risk of theft and robbery," she said. Ms. Vanella said she had learned a lot during this process, asking that in the future, an EIR be required to have the residents of the area considered, as well as occurring forces in an EIR. "Above all," Ms. Vanella said, "want to be good neighbors - and have Arco be a good neighbor to us."

Gene Vanella, 160 Sanchez Dr., said that Arco officials willingness to curtail wine and beer sales at 10 p.m. was a 'good neighbor thing to do'. Mr. Vanella said he feels 'ran over' by this process, but would lessen his opposition if the demands for different hours is met.

K.T. Wickerham, 4 Centerpoint Dr., LaPalma, addressed the Commissioners as spokesman for Arco, said, "This has been a long road, with three trips to the City Council. We had hoped to have all of the problems corrected and have conceded much." Mr. Wickerham said it is unheard that beer and wine sales are limited to the hours agreed, but Arco is

willing to do so to be a 'good neighbor'. He also emphasized that the car wash will not operate after dark and will open later in the morning, which he described as 'unusual' and not consistent with the other 950 installations in the Western United States.

Responding to a question from the Chair, Mr. Wickerham said this project will be 'around \$3 million' total, will be the nicest in the area with everything new, and \$300,000 - \$400,000 in additional costs of design features.

Commissioner Acevedo asked about the number of employees on site at any time? Mr. Wickerham replied that there would be a minimum of two, in accordance with corporate policy. Commenting on the suggestion that a cash window be utilized, Mr. Wickerham said these have proved dangerous to operations as persons bent on robbery have sabotaged the windows to the detriment of personnel and would not be used here.

Martin Fineman, One Embarcadero Center #600, San Francisco, spoke "in favor of this excellent project". He noted the 'extensive hearings' even though the project is in compliance with the general plan and zoning. Mr. Fineman addressed the letter sent by David Sweigert, attorney for the homeowners in the area, which he described as containing 'materials previously considered by the City Council before granting the zoning to the project'. Mr. Fineman continued that the Sweigert letter indicates something is missing in the mitigated EIR. "That is not the case," he said.

For the benefit of the audience, Chair Sullivan explained the EIR process.

Commissioner Weston asked PM Rowe to provide a time-line for the PUD agreement referenced in Mr. Sweigert's letter. PM Rowe complied with the request and noted that the second reading of the proposed (amended) zoning ordinance will go to the Council May 1st.

Linda Hartman, 120 Berkshire Dr., said she feels 'like we've lost - and I don't like to lose'. "I won't feel comfortable in my home again; I won't have my peaceful home again," she said, "due to this project." Ms. Hartman described the process as 'an unbelievable experience'. "I would like to think this was not a 'done deal' before it started," she said. "My neighbors and I remain very much opposed to a gateway to our beautiful City being an AM/PM." Chair Sullivan asked if Ms. Hartman had looked into the general plan and zoning in the area and the subject property in particular before buying her home. She responded she had not.

With no others indicating a desire to speak to the matter, the public hearing was closed.

Commissioner Benich thanked all those who came to the meeting, reminding that the Commissioners and Council Members must look at what is best for all the residents of

Morgan Hill. He assured that the matter was NOT a 'done deal' as the neighbors seemed to think. Commissioner Benich reminded staff that he had made a specific request that no shopping carts be permitted in the center; it was pointed out this had occurred and was present in the findings, specifically in Section 3, bullet 4.

PM Rowe called attention to the findings as a requirement of zoning which condition actions of development. He specifically referenced page 7, #s 14 and 15, which govern the construction requirements of the PUD.

Commissioner Mueller asked for information regarding compliance with the mitigated negative declaration. PM Rowe referenced in prepared Resolution 02-28, Section 5, page 4 in response to the question. Commissioner Mueller continued by asking how modifications to the Resolution would be treated by the Council? PM Rowe said that on page 15, number 14 states that modifications are included by reference.

Commissioner Weston wondered about how conditional use permits are dealt with if the conditions are not being met? PM Rowe and Chair Sullivan combined to respond to the question, citing past practice of the City and Commission.

Commissioner Weston said he hoped the NAG group would remain vigilant.

Responding to a question of the proximity of the gas station to the rail tracks, PM Rowe said that reports from rail safety experts and pedestrian safety issues had been extensively discussed at the Council meeting.

COMMISSIONERS ACEVEDO/BENICH OFFERED RESOLUTION NO. 02-28, REPEALING RESOLUTION NO. 01-82 AND ADOPTING A NEW RESOLUTION APPROVING A CONDITIONAL USE PERMIT, AS AMENDED, TO ALLOW FOR DEVELOPMENT AND OPERATION OF AN ARCO SERVICE STATION CONSISTING OF 3,600 SQ. FT. MINI-MARKET, 792 SQ. FT. CAR WASH AND 4,500 SQ. FT. PUMP ISLAND, AT 18605 MONTEREY ROAD. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.

NEW BUSINESS:

**3) DAA-00-09:
LLAGAS-
DELCO** A request to amend the development agreement for the 46 unit Monte Villa project to be located on the south side of Llagas Rd. approximately 350 ft. west of the Hale Ave. and Llagas Rd. intersection. The amendment request would extend 15 building allocations for a one year period.

**DAA-00-10:
HALE-DELCO/
SHENG** A request to amend the development agreement for the 18 unit Twin Oaks project to be located on the west side of Hale Ave. approximately 1400 ft. south of the Hale Ave. and Llagas Rd. intersection. The amendment request would extend 7 building allocations for a one year period.

The 46 unit Llagas-Delco project has received 15 building allotments for FY 2001 & 2002, 24 building allotments for FY 2002 & 2003 and 7 for FY 2003-04. The 18 unit Hale-Delco project received 7 building allotments for FY 2001 & 2002 and 6 building allotments for FY 2002 & 2003.

Both projects received zoning, subdivision and development agreement approval in August 2001. The applicant submitted for final map and improvement plan approval in September of 2001 .

PM Rowe gave the staff report, stating this is an Exception to Loss of Building Allocation (ELBA), and continued by providing the history of the project. PM Rowe explained the need for time changes provided in Exhibit B, page 3 of the staff report.

The one-year extension of time is being requested due to delays not the result of developer inaction. The size and location of these projects warranted an expanded initial study under CEQA, which delayed the project 7 months. The typical processing time with Santa Clara County Roads and Airports is typically 7 months. The applicant has worked diligently in processing both of these development applications. Building plans were submitted in February for each project. The project is also having to comply with the requirements of the Regional Water Quality Control Board, the S.C.V.W.D, Fish and Game and the Army Corp. of Engineers for the creek improvements proposed within the subdivisions.

In addition to the ELBA request, a second amendment is requested for only the Llagas-Delco project. The Llagas-Delco project committed to do the following as part of their 2000 MP application:

(1) Owner agrees to install a pathway along the west side of Hale Ave. from the project frontage extending south to the intersection at Wright Ave., as well as constructing the missing portion of pathway on the south side of Llagas Rd. east of Hale Ave. (Church) frontage and along Old Monterey Rd. The owner also agrees to install pathway from Old Monterey Rd. south to the Acacia Mobile Home park on Monterey Rd. (\$1000 per lot).

The project did not receive points for this commitment since Britton Middle school was greater than 3/4 miles from the project. As part of the approval of the project's development agreement, the Commission requested that this commitment be added to the agreement since it was offered as part of the RDCS process.

The easements to complete these improvements cannot be obtained. The applicant and the School District have agreed to an alternative project; however, the wording in the development agreement does not allow for flexibility with this commitment. The other school commitment within the development agreement contains language allowing for "a comparable project," section (1) does not. Staff is recommending that a statement be added to section (1) allowing for the applicant to agree to an alternative project with the School District. Staff is recommending that section (1) would be modified to read as follows:

(1) Owner agrees to install a pathway along the west side of Hale Ave. from the project frontage extending south to the intersection at Wright Ave., as well as constructing the missing portion of pathway on the south side of Llagas Rd. east of Hale Ave. (Church) frontage and along Old Monterey Rd. The owner also agrees to install pathway from Old Monterey Rd. south to the Acacia Mobile Home park on Monterey Rd. (\$1000 per lot).

Or the developer will complete a comparable project at the Discretion of the Morgan Hill Unified School District.

PM Rowe stated that staff recommended approval of a one-year extension of time for each project and has provided suggested Resolutions.

Chair Sullivan opened the public hearing.

Phil Rowe, 2552 Stanwell Dr., Concord, applicant, clarified the issue of the school and provided information on the Hale Avenue improvements. He told the Commissioners of his efforts to eliminate, or at least lessen the delays experienced, and to work closely with the agencies to complete the project.

Commissioner Lyle asked about when the applicant could get the units underway? Mr. Rowe responded that he is dependent on the County for encroachment permits and, consequently, could not predict when that might occur.

The public hearing was closed.

Commissioner Mueller said it is important to be able to track the selling price of houses and he believes the developers should provide that information. He cited the need for reporting the availability of affordable houses, saying the data he indicated would be invaluable. Others agreed and it was decided that staff will ensure this data collection.

COMMISSIONERS MUELLER/ACEVEDO OFFERED RESOLUTION NO. 02-29, WITH MODIFICATIONS CONTAINED THEREIN (REFERENCE IN SECTION 3 TO A 'COMPARABLE PROJECT'; \$1,000 UNIT COMMITMENT; TIME CHANGE 5-15-02 TO 4/1/03; AND A NEW SECTION ADDED TO #14 (STANDARD CONDITIONS), RECOMMENDING APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT TO ALLOW FOR A ONE-YEAR EXTENSION OF TIME AND A MODIFICATION TO ALLOW FLEXIBILITY IN PROJECT COMMITMENT FOR MEASURE P PROJECT MP-99-24/00-10: LLAGAS-DELCO. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.

Commissioner Weston asked about the sidewalk alternative; this matter has been referred to the Measure P Subcommittee.

Commissioner Lyle commented that he believes the developer is trying for resolution and so he is supportive.

COMMISSIONERS MUELLER/LYLE OFFERED RESOLUTION NO. 02-30, RECOMMENDING APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT TO ALLOW FOR A ONE-YEAR EXTENSION OF TIME FOR MEASURE P PROJECT MP-99-31: HALE - DELCO (SHENG) THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE,

MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.

COMMENT: THE COMMISSIONERS AGREED THAT THE REQUIREMENT OF THE SALES PRICE PROVISION SHOULD ALSO BE INCLUDED AS AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE LLAGAS-DELCO PROJECT ABOVE.

**4) ZA-02-04/
DA-02-01:
CHURCH-SO.
COUNTY
HOUSING**

A request to approve a zoning amendment and development agreement for a four-acre site from R3 to Planned Unit Development (PUD). The applicant is proposing a mixed-use project consisting of 72 apartment units and a 4,200 sq. ft. student day care facility for a maximum of 45 students, a 4,300 sq. ft. community center, and 3,000 sq. ft. office area for non-profit groups.

PM Rowe reported this item was advertised for the April 23, 2002, Planning Commission meeting; however, he said, upon further review, staff has determined that the project is not ready for consideration by the Planning Commission. Additional modifications need to be made to the plan to address parking and circulation concerns. The applicant and staff are working together to address the issues and bring the proposal into conformance with the City's Municipal Code. PM Rowe noted a Mitigated Negative Declaration was approved during the General Plan Amendment Approval for this project. No additional environmental review is required, he said. The applicant shall comply with all mitigation measures contained in the Mitigated Negative Declaration on file at the Community Development Department, GPA-00-03: Monterey - South County Housing.

Chair Sullivan opened the public hearing.

Reiterating the request for continuance, and noting none present to address the matter, Chair Sullivan closed the public hearing.

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO CONTINUE THE PUBLIC HEARING TO THE MAY 14, 2002 MEETING. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.

**5) ZA-00-05:
HALE-
GLENROCK/
SHEA HOMES**

A request to approve a revised precise development plan for 67 acre Capriano development located on the south side of Tilton Ave., east side of Hale Ave., west of the railroad tracks. The proposed development plan includes 38 single family attached homes and 172 single-family detached homes.

PM Rowe presented the staff report, first stating the recommendation is to direct applicant to revise precise development plan. He offered the following as basis for the recommendation:

In December of 1997, the City Council approved a General Plan Amendment request that changed the land use designation on a 71-acre area from Campus Industrial to Single-

Family Low (1-3 dwelling units per acre) and Multi-Family Medium (14-21 dwelling units per acre) totaling 71 acres. The City also rezoned a 66-acre portion of the property.

The following conditions were applied to the development within the RPD:

1. An open space buffer of 100 ft. shall be established between the residential uses and Tilton Ave. and the residential uses and the railroad.
2. Residential development shall be done in a manner which will minimize the need for sound walls. Such development methods would include units fronting or facing noise sources, frontage roads or the use of earth berms.
3. The reduction in lot size below the base zoning district shall be prohibited.

In 1999, a residential project on the subject site received building allotments under the RDSCS. In November of 1999, the City Council approved a new precise development plan for the project. The Council also placed the following restrictions on the development within the RPD:

1. An open space buffer of 100 ft. shall be established between the residential uses and Tilton Ave., and the residential uses and the railroad.
2. Residential development shall be done in a manner which will minimize the need for sound walls. Such development methods would include units fronting or facing noise sources, frontage roads or the use of earth berms.
3. The average and median lot size of the single-family detached homes (excluding any condominium or duets) shall be 12,000 sq. ft. for the over all 55.63 acre development.
4. The maximum number of homes (excluding the 10.5 acres of multi-family) shall be 155 units. The maximum number of condominium units shall be 19. The maximum number single-family detached units shall be 128; the minimum number of duet units (located outside of the condominium area) shall be 8.
5. A minimum of 5 acres of park/open space area shall be provided within the overall development.
6. A minimum of 30,000 sq. ft. of the R- 1 12,000 area shall be utilized as a nursery or preschool facility. The school facility shall be located on the south east corner of the intersection of Dougherty Ave. and Tilton Avenue.

In July of 2001, the City of Morgan Hill adopted an updated General Plan. As part of the update process, the land use designation on the 10.5 acres of Multi-Family Medium was changed to MultiFamily Low, and Action 7.3 was added to the Land Use Element text as follows:

The portion of the 65-acre development located between the Union Pacific Railway and Hale Avenue, south of Tilton Avenue which is planned for multi-family development shall be buffered from view from Hale Avenue by a row of single family homes developed on lots of a minimum 9,000 square feet in size.

The current RPD specifies precise guidelines for the development of the subject properties. Those guidelines were based on the project area totaling 66 acres (55 acres devoted to single-family and 10.5 devoted to multi-family). Under the current proposal, the land area devoted to single-family development has increased from 55.63 to 59.98 and the multi-family area has been reduced from 10.37 to 8.25. The increase in area comes from the inclusion of the 3 parcels (total 2 acres) on Tilton Ave. which were previously excluded, the elimination of the school site (.69 acres) and the decrease in the size of the area devoted to multi-family development. The amount of open space within the development remains the same at 6.117 acres.

The proposed precise development plan does not adhere to the conditions of the previous RPD. Staff has recommended that some of the conditions within the previous RPD be changed and that others be maintained. Depending on the Commission's perspective on some of the issues raised, the layout submitted at this time may need some significant revisions. It is recommended that the Commission direct the applicant to revise the precise development plan consistent with the recommended guideline revisions. If the Commission concurs with the precise development plan as proposed by the applicant, a resolution of approval can be prepared for adoption at the next meeting as a consent calendar item.

Chair Sullivan opened the public hearing.

Rocke Garcia, 100 E. Third St., told Commissioners, "As you know this application is to change the existing RPD zoning on our property known as Madrone Crossing/Capriano to meet the newly adopted General Plan and the changes that have occurred over the years since the original RPD zoning in 1999."

Mr. Garcia offered the following: The most significant change is the reduction of the R-3 RPD for the congregate care housing (approximately 170 units) to R-2 RPD "Carriage Homes" (48 units), which also reduces the multi-family acreage from 10.37 acres to 8.247 acres.

Mr. Garcia outlined the conditions under the original RPD which he asked to be adjusted:
1. An open space buffer of 100 ft. shall be established between the residential uses and Tilton Ave. and the residential uses and the railroad.

Changed to: An open space buffer of 100 ft. shall be established between the residential uses and the railroad. (Tilton Avenue is now a local street which will be made into a cul de sac. All lots fronting on Tilton will be a minimum of 12,000 square feet and do not need the open space buffer).

3. The average and median lot size of the single-family detached homes (excluding any condominium or duets) shall be 12,000 sq. ft. for the overall 55.63-acre development. Mr. Garcia said this should be changed to: The average lot size of the single-family detached

homes (excluding any condominium or duets) shall be approximately 12,000 square feet. The median lot size of the single-family detached homes (excluding any condominium or duets) shall be 12,000 square feet. (As proposed the average lot size is 11,978 square feet; and as Tilton becomes a local street, it is anticipated the lots fronting Tilton will increase in square footage slightly increasing the average).

4. The maximum number of homes (excluding the 10.5 acres of multi-family) shall be 155 units. The maximum number of condominium units shall be 19. The maximum number of single-family detached units shall be 128. And the minimum number of duet units (located outside of the condominium area) shall be 8. Mr. Garcia asked this be changed to: The maximum number of homes (excluding the 8.247 acres of multi-family) shall be 155. The maximum number of condominium units shall be 19. The maximum number of single family detached units shall be 128. And the minimum number of duet units (located outside the condominium area) shall be 8.

6. A minimum of 30,000 sq. ft. of the R-1 12,000 area shall be utilized as a nursery or preschool facility. The school facility shall be located on the southeast corner of the intersection of Doughetty Ave. and Tilton Avenue. This is exceptionally difficult, Mr. Garcia said, and should be changed to: Delete 6 in its entirety; as private Carden Academy has located nearby and Burnett School is across Tilton Ave. Measure P applications have deleted the "preschool/nursery", as no perceived need has been shown.

The public hearing was closed.

Considerable discussion ensued regarding the wetlands, and placement of housing near the wetlands, the park(s) and other amenities of the project.

Commissioner Weston clarified that no points had been given for the child care requirement under Measure P.

Commissioner Lyle questioned the viability of the method of counting the square footage when the acreage is subsequently reduced. He also expressed disappointment that there had been minimalization of sound walls.

Chair Sullivan said it seems inconsistent to have backyards back onto the wetlands, as this would not decrease disturbance of the wetlands and might increase the foot traffic as people travel to recreational facilities.

In providing direction to staff, Commissioners spoke of several areas: #6, the nursery school plan is to be reinstated to the plan, but may be less than 30,000 sf.; the location of the day care may be changed. Staff should check space requirements from other facilities and the State for guidance in the matter.

The total number of units is 210; it was discussed this could mean significant numbers to the City population, depending on the numbers of residents in each household.

The proposed reduction of acreage was of concern to the Commissioners, as was the location of the amenities of the project.

Specific concerns of the Commissioners were the following items 1 - 7 on page 5 of the staff report, which staff found to be of consternation, as well:

1. The open space areas are not conveniently located.
2. Homes back onto the open space area along Hale Ave.
3. The "custom duet" lots are undesirable and impractical.
4. The condominium lots for the BMR's are undesirable.
5. The project proposes secondary dwelling units within the R-2 area.
6. The internal circulation is not desirable.
7. The transition of lot size internal to the project could be improved (lots located closest to R-2 district are larger than those further east).

It was eventually agreed that of the seven identified items, numbers 1, 2, and 4 remained on the table for staff to work with the applicant for resolution.

To facilitate the work between staff and the applicant, **COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO CONTINUE THE MATTER TO THE MAY 14, 2002 MEETING. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.**

OTHER BUSINESS:

6) RDACS QUARTERLY REPORT

PM Rowe gave the staff report. He stated that the purpose of the RDACS Quarterly Report is to monitor the progress of projects approved under Measures "E" & "P", and where satisfactory progress is not being made, to take action which can result in the rescission and redistribution of building allotments to projects which can be completed within required time frames.

Explaining the staff recommendation, PM Rowe introduced the following:

- 1) Staff recommends that the Planning Commission approve the RDACS Quarterly Report by minute action.
- 2) Receive comments and consider whether to schedule revocation hearings or establish additional checkpoints for projects listed in the Measure "P" Entitlements Pending section. Additional status information for these projects will be presented at the PC meeting. Staff has also requested the applicants for the projects with a delinquent status to be present at this meeting and to advise the Commission of the status of their projects.

The purpose of the RDACS Quarterly Report, PM Rowe said, are to monitor the progress of projects approved under Measures "E" & "P", and where satisfactory progress is not

being made, to take actions which can result in the rescission and redistribution of building allotments to projects which can be completed within required time frames.

PM Rowe presented the 'progress of projects':

Measure "E" Projects - Construction Pending/Completed: The LaGrande Estates project (ME-89-10) continued construction on its final 3 units. Completed: None.

Measure "P" Projects - Entitlements Pending

The following project or project phases are classified as being BEHIND SCHEDULE: Hale Garcia (MP-98-32); E. Dunne - First Community Housing (MP-98-35); Llagas - Delco (MP-99-24); Hale - Sheng (MP-99-31); E. Dunne - Grewal (MP-00-02); and McLaughlin - Jones (MP-00-03).

The following project or project phases are classified as being DELINQUENT: Malaguerra Ansuini (MP-99-26); Berkshire - Singh (MP- 00-01); and Nina Lane - Shaw (MP-00-05).

Construction Pending/Completed - Since the last report, RDCS Measure "P" projects have secured 48 additional building permits and completed the construction of 19 homes.

Projects Completed/Expired - The following projects or project phases have completed their Measure "P" units and will no longer be reported: Central Park (units allocated May, 2001 under MP-00-18).

PM Rowe offered conclusion and requested the Commission to approve the Quarterly Report by minute action.

Chair Sullivan opened the public hearing.

The following speakers made requests and offered explanations of the need for extensions, offering time-frames for commencement of the various projects.

TK Singh, 305 Hazelton Court. (MP-00-01)

Dan Shaw, 15700 Winchester Blvd., Los Gatos. (MP-00-05)

Hans Mulberg, 16760 Oak View Circle, engineer for the project (MP-00-02).

Jerry Jones, 16532 Mira Bella Pl., (MP-00-03)

Dick Oliver, 275 Saratoga Ave. #105, (MP-99-22)

Rocke Garcia, 100 E. Third St., (MP-98-32)

The public hearing was closed.

Commissioner Mueller asked PM Rowe to explain the status of MP-00-01; it was explained the project would go to the Architectural Review Board (ARB) for final approval. However, PM Rowe said, it will be necessary for the County of Santa Clara to sign off on the rights-of-way issues/Hale Avenue street improvements.

Commissioner Lyle said that there should be mid-year check points on those projects being granted extensions and that policy should not be limited to those under scrutiny tonight.

Commissioner Mueller said the four allocations in the Grewal project seem 'a long way off' and it may be necessary to consider those for use within another project. PM Rowe said this particular project has had lots of '11th hour issues' and he feels the engineer is making efforts to help resolve those. When Commissioner Mueller declared uncertainty as to the issues of the project, PM Rowe volunteered to have a clear, chronological pattern presented at the next meeting.

COMMISSIONERS MUELLER/WESTON MOTIONED TO FORWARD THE REPORT TO THE CITY COUNCIL, RECOMMENDING APPROVAL, WITH THE ADDITION OF THE MID-YEAR CHECK-POINT AS OUTLINED IN DISCUSSION. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.

Building on the agreement reached earlier, Commissioner Mueller said it is important to be able to track the selling price of houses and he believes the developers should provide that information. He cited the need for reporting the availability of affordable houses, saying the data he indicated would be invaluable. Others agreed and it was decided that staff will ensure this data collection. Commissioners asked staff to provide a bi-annual report in the same format as the RDCS. PM Rowe assured this will occur.

ANNOUNCEMENTS:

PM Rowe said that at the April 17 City Council meeting, the Council had introduced an ordinance increasing the number of beds for Villa Heights.

At that same meeting, PM Rowe reported, the Council had indicated agreement with the action of the Planning Commission in the matter of rezone requests on Cochrane Rd. Denial of the appeal filed in the Jones RPD had been decided by the Council, reflecting compatibility with Commission action.

PM Rowe noted the flier/bulletin from VTA saying a workshop on Transportatory Development, to which the Commissioners, the ARB, and the DownTown Task Force have been invited, is to be held May 15 and 16.

Commissioner Mueller announced he would like a legislative group to review and report on SB1521, an initiative to dictate zoning to Cities. Commissioner Mueller said he has a concern regarding the open market projects and the numbers in the scoring for the projects.

He suggested 'raising the bar' as the projects are scoring very high at the present time, believing that the Subcommittee needs to think beyond the current criteria in preparation for inclusion of a Measure P ballot measure update.

Commissioner Benich sadly announced there is little activity in the Burrowing Owl Committee.

Commissioner Mueller said the Fire Master Plan has been accepted by the City Council as a planning tool.

ADJOURNMENT: There being no further business, Chair Sullivan adjourned the meeting at 11:03 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk